

Serial: 201757

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99002-SCT

IN RE: MISSISSIPPI RULES OF EVIDENCE

ORDER

This matter is before the en banc Court on the Motion to Amend MRE 802 and Comment to MRE 804 filed by the Advisory Committee on Rules. After due consideration, we find that the amendments will promote the fair and efficient administration of justice.

IT IS THEREFORE ORDERED that the motion is granted. Rule 802 and the Comment to Rule 804 of the Mississippi Rules of Evidence are amended as set forth in Exhibit "A." The amendments will be effective on December 1, 2015.

IT IS FURTHER ORDERED that the Clerk of this Court must spread this order upon the minutes of the Court and forward a certified copy to West Publishing Company for publication in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*, and in the next edition of the *Mississippi Rules of Court*.

SO ORDERED, this the 15th day of October, 2015.

/s/ Jess H. Dickinson

JESS H. DICKINSON,
PRESIDING JUSTICE
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT "A"

RULE 802. HEARSAY RULE

Hearsay is not admissible except as provided by law. The words "as provided by law" include other rules prescribed by the Mississippi Supreme Court.

. . . .

**RULE 804. HEARSAY EXCEPTIONS;
DECLARANT UNAVAILABLE**

. . . .

Comment

(a) In defining unavailability, the rule lists six situations in which unavailability exists:

. . . .

(5) Absence of the witness from the hearing accompanied by an inability of the proponent of the evidence to compel the witness's presence is within the definition of unavailability. Nothing in Rule 804, however, affects the admissibility of depositions otherwise admissible under M.R.C.P. 32 ~~(a)(3)(B)~~.